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March 25, 1997

BY HAND DELIVERY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W. Room 222  
Washington, DC 20554

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Federal Communications Commission  
Office of Secretary

RE: CC Docket No. 92-166

Ex Parte Presentation (2 copies filed)

Dear Mr. Caton:

On February 26, 1997, Motorola Satellite Communications, Inc. ("Motorola"), filed in this docket a copy of an agreement among Globalstar, L.P., Iridium LLC, and Odyssey Telecommunications International, Inc., to promote globally the spectrum plan established by the Commission for the Mobile Satellite Service ("MSS") at 1.6/2.4 GHz.<sup>1</sup> This letter is being filed on behalf of L/Q Licensee, Inc. ("LQL"), licensee of the Globalstar™ MSS Above 1 GHz system,<sup>2</sup> to bring to the Commission's attention certain events related to this agreement which may have an impact on the efficacy of the band plan adopted in the Big LEO Rules Order and the issues raised in the pending petitions for reconsideration or clarification in this docket.<sup>3</sup>

<sup>1</sup> See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, 9 FCC Rcd 5936, 5954-61 (1994) ("Big LEO Rules Order"), on recon., 2 CR 673 (1996) ("Big LEO Reconsideration Order").

<sup>2</sup> See Loral/Qualcomm Partnership, L.P., 10 FCC Rcd 2333 (Int'l Bur. 1995), aff'd, 3 CR 703 (1996); L/Q Licensee, Inc., DA 96-1924 (Int'l Bur., released Nov. 19, 1996).

<sup>3</sup> On April 11, 1996, petitions for reconsideration of the Big LEO Reconsideration Order were filed by Aeronautical Radio, Inc., and TRW Inc., and a petition for clarification was filed by LQL. All three petitions raised issues related

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LQL's concerns arise in part from the recent adoption by CEPT of a draft European band plan for the 1.6/2.4 GHz bands (CEPT/ERC/PT 22). The CEPT plan follows the U.S. plan closely with respect to the division of the L-band frequencies between CDMA and TDMA/FDMA systems. However, at the urging of Iridium's service providers in Europe, CEPT also proposed a footnote which states that Iridium may eventually need 3.1 MHz more spectrum for commercial reasons.

Obviously, this footnote is inconsistent with the Commission's spectrum plan, because it suggests that one system, Iridium, has an entitlement to garner additional spectrum in the 1.6 GHz band to meet its commercial expectations. The Commission has discussed expanding the TDMA/FDMA assignment from 5.15 MHz to 8.25 MHz if just one CDMA system becomes operational.<sup>4</sup> However, in that event, the Commission would consider all the circumstances surrounding the usefulness of the available spectrum segments and the potential need for additional competitors.<sup>5</sup>

The CEPT plan is also inconsistent with the policy underlying the spectrum plan adopted in this docket. The U.S. plan represents an effort to achieve a level playing field among the competing Big LEO systems and to assign each system sufficient spectrum for technical and commercial operation.<sup>6</sup> An allocation scheme devised to provide preferential market access, based on the perceived commercial needs of one system, upsets this balance.

In light of these concerns in Europe, the issues pending in this proceeding gain greater significance to the success of U.S. policies. In the Big LEO Rules Order, the Commission devised an "interim sharing plan" in recognition that stringent protection requirements for GLONASS receivers may impair the

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to the protection requirements for GLONASS receivers which may be applicable to Big LEO systems and/or the need for an interim spectrum sharing plan. See Big LEO Reconsideration Order, 2 CR at 677-78.

<sup>4</sup> Big LEO Rules Order, 9 FCC Rcd at 5959-60.

<sup>5</sup> Id.

<sup>6</sup> See Globalstar/Iridium/Odyssey Agreement (dated Oct. 4, 1996) (U.S. spectrum plan accepted "as a fair accommodation of their respective system technical requirements and business plans").

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usefulness of the lower frequencies in the 1610-1626.5 MHz band.<sup>7</sup> The Commission's pro-competition policies for Big LEO systems dictated that the burden of this impairment be distributed equitably to all Big LEO systems.

As TRW Inc. pointed out in a recent letter to this docket,<sup>8</sup> the Commission eliminated the "interim sharing plan" for Big LEO systems because of "the substantial uncertainty as to whether protection of GLONASS will ever be necessary in any configuration below 1606 MHz" as a result of the system's planned frequency migration by 2005.<sup>9</sup> But, the Federal Aviation Administration is still recommending protection requirements for GLONASS which the MSS community believes are more stringent than necessary. The aviation industry has sought that these requirements be met during GLONASS's interim frequency configuration which may never be used in the United States for radionavigation purposes.

These events in Europe and the U.S. could result in significant impairment of CDMA spectrum. On the lower end of the spectrum, CDMA systems could lose spectrum in the U.S. (and in other countries) to accommodate the FAA's proposal to adopt stringent protection requirements for the Russian GLONASS system. On the upper end, CDMA systems could lose spectrum in Europe to accommodate the alleged "commercial" needs of Iridium.<sup>10</sup> The resulting decrease in spectrum available to CDMA systems could, in turn, adversely impact the Commission's goal of promoting market-based competition among Big LEO systems.

LQL recommends that the Commission address these concerns in at least two contexts. First, in the Big LEO Reconsideration Order, the Commission stated that it intended to express its view to other countries that "as a general matter, global satellite systems will be more likely to succeed if individual administrations adopt complementary systems for licensing them" and adoption of

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<sup>7</sup> Big LEO Rules Order, 9 FCC Rcd at 5956-59.

<sup>8</sup> See Letter from Norman L. Leventhal to William F. Caton (Feb. 28, 1997).

<sup>9</sup> Big LEO Reconsideration Order, 2 CR at 677.

<sup>10</sup> It should also be noted that Motorola recently filed an application for modification of its Big LEO license to provide global AMS(R)S in the 1621.35-1626.5 MHz band which could, depending upon the rules for such service, have an adverse impact on CDMA spectrum. See LQL's Petition to Deny or to Grant with Conditions, File No. 18-SAT-ML-97 (filed Feb. 18, 1997).

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the U.S. band plan could "provide a simple means of assuring a complementary licensing system in other countries and speed the benefits of Big LEO MSS to the public."<sup>11</sup> National authorities certainly have the right to decide what spectrum plan best serves their interests. However, as the Commission has recognized in other proceedings, an approach to international licensing based on providing preferential market access for one system -- as may be foreshadowed by the CEPT plan -- could have an adverse impact on domestic policies. In the ongoing coordination of Big LEO systems, the Commission should take an active role in expressing this view.

Second, LQL reiterates its request that the Commission provide the clarification as requested in LQL's pending petition in this docket, i.e., elimination of the interim sharing plan in the United States is dependent upon the absence of requirements for out-of-band protection for GLONASS receivers, and, if such protection requirements are adopted, then the Commission will implement some form of the interim plan to allocate equitably the burden of any impairment of the 1610-1626.5 MHz band among all licensed Big LEO systems, including the TDMA/FDMA system.

Respectfully submitted,

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<sup>11</sup> Big LEO Reconsideration Order, 2 CR at 685.

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